

GEORGE J. KNIGHT.

DECEMBER 23, 1831.

Reprinted by order of the House of Representatives.

Mr. CARSON, from the Committee on Naval Affairs, made the following

REPORT:

*The Committee on Naval Affairs, to whom was referred the petition of George J. Knight, make the following report:*

The petitioner, previous to the month of May, 1814, was the owner of a schooner called the "Experiment," engaged in trade in the Chesapeake bay and its tributary waters, under the command of Capt. George McDuell. He alleges that he gave strict orders to his captain not to do any thing which would expose his vessel to capture by the British forces, which then infested the waters of the Chesapeake, nor to engage in any improper trade: that, while said vessel was proceeding on her voyage down the river Potomac, she was stopped by the commander of a small vessel of war of the United States, and taken into the public service as a lookout vessel; that said vessel was despatched by the commander of the United States' vessel of war down the river Potomac to look out for British ships of war, which were said to be in that river: that, upon turning a point in the river, she suddenly came in view of a squadron of British ships: that the captain of said schooner endeavored to make his escape by running into Yeocomico creek, but, in doing so, the vessel grounded, and was next morning captured by the enemy's barges, and burned; and the petitioner claims compensation for the vessel so captured and destroyed. At the time of these transactions the petitioner resided in the city of Baltimore, in the State of Maryland, and was engaged in mercantile transactions; but that, owing to this and many other heavy losses in trade, he was compelled to relinquish his business, and removed to the western part of the State of New York, and assumed the occupation of a farmer. That, at the time of the destruction of his vessel, a protest, setting forth all the circumstances of the case, was made by Captain McDuell, her commander, which, together with other depositions and documents in the case, were wholly and utterly destroyed, by the burning of his dwellinghouse on the 10th of February, 1830. The fact of the burning of the petitioner's dwelling is fully substantiated by a large number of his neighbors.

It appears from documents with which the committee have been furnished by the Navy Department, that the United States' schooner "Asp," under the command of Midshipman Richard Mackall, was despatched from the navy yard in Washington, on the 13th of April, 1814, to Baltimore, with cannon, and a raft of mast pieces in tow, intended for the United States' frigate *Java*, then building in Baltimore: that, after the departure of the "Asp"

from Washington, the Navy Department was informed that a British squadron was lying off the mouth of the Potomac, and that orders were thereupon forwarded to stop her further progress. On the 29th of April, the commander of the *Asp*, in a letter dated "Ludlow's landing," informed Commodore Tingey that he had obtained certain intelligence that the enemy's squadron was at anchor a small distance below Blackstone's island, in the Potomac, and that, for safety of the raft, &c., he should move further up the river.

It appears from the depositions of Captain McDuell, who now resides in the city of Washington, taken March 29th and April 8th, 1830, that, while the *Asp* was thus lying in the Potomac, arrested in her voyage, and beleaguered by the enemy, the vessel of the petitioner, pursuing a voyage from Alexandria, in the District of Columbia, to St. Mary's, on the Potomac, was hailed by the *Asp*, and informed that the enemy were in the Potomac below; upon which the "Experiment" cast anchor along side the *Asp*, the commander of which stated, that, as his vessel was not a swift sailer, and being incumbered with a raft in tow, the preservation of which was of much consequence, he was desirous of engaging a fast sailing vessel, such as the *Experiment*, as a lookout vessel to proceed down the river and reconnoitre the enemy: that he (Captain McDuell) having other people's property on board, and positive orders from his owners not to risk or endanger his vessel, declined the service. Upon which the commander of the *Asp* informed him that he was authorized to employ a vessel to look out, if he found it necessary to do so, and thereupon positively *order* him to proceed down the river to reconnoitre: that he then considered he had no further discretion in the case, as he considered, in fact, his vessel and himself *impressed* into the public service, by a force which he had not the ability, if the inclination to oppose: that he did proceed on the service assigned him, and went cautiously down the river as far as Piney Point, keeping as near the shore as possible. On opening the point, in the dusk of the evening, he suddenly discovered the enemy's squadron, and was completely within their power; that, not being able to return, the wind blowing down the river, he ran across the river and endeavored to gain Yeocomico creek, in doing which he grounded; and that every exertion to get the vessel off proved fruitless. She was captured next morning by the enemy's barges, who also faithlessly endeavored to get off, after which she was fired and destroyed. Captain McDuell also states, that no consideration would have induced him to have ventured his vessel in the service, had he not believed that he was bound to do so by the orders of the officer of the Government, being, as he conceived, legally impressed into the public service, and that he could have reached his place of destination in safety. He further states, that shortly after the capture and destruction of the *Experiment*, he entered a protest before the collector of the port of Yeocomico, which he sent to his owners in Baltimore.

It may be proper here to observe, that the respectability of the character of Captain McDuell is amply vouched by many highly honorable gentlemen of the city of Washington.

G. Robinson, of Westmoreland county, Virginia, states that he was on the shore when Captain McDuell landed from his schooner, who then made the same representations with respect to his being impressed into the public service as are set forth in his deposition, which Mr. Robinson states he has examined.

John Murphy, the presiding justice of Westmoreland county court, states that he recollects the circumstances of the vessel's being on shore, captured, and destroyed; that a company of United States' troops and a company of militia, stationed in the neighborhood, went to her defence: that he has seen Captain McDuell's statement, and that he has not the least doubt it is perfectly correct.

Captain Allen S. Dozier states that he was in command of a company of militia stationed a little above the mouth of Yeocomico creek; saw the schooner on shore: that Captain McDuell called upon him for assistance to get her off: that part of his company went on board, used all the means in their power, during the night, but without success: that she was captured next morning and destroyed; and that, to the best of his recollection, Capt. McDuell made a formal protest before the collector of Yeocomico, which was also signed by his lieutenant and himself, setting forth all the circumstances of the case.

Captain William L. Rogers states that he commanded a company of the United States' troops stationed about two miles above the place where the vessel was destroyed: that, upon discovering she was aground, he went to her relief: that a large armed barge, under cover of a heavy armed schooner, was approaching: that all was done in her defence with musketry, which time and circumstances permitted: and that, during the conflict, Capt. McDuell behaved with firmness, and manifested a determination to defend his vessel to the last. Captain Rogers also states, that after the vessel was abandoned by the enemy, he boarded her with a view to extinguish the fire, but that all endeavors to do so were fruitless; that the vessel appeared to be from eighty to a hundred tons' burthen, in good condition, worth from two to three thousand dollars.

The Hon. John Taliaferro, of the House of Representatives, certifies, in writing, to the high standing and respectability of the characters of Mr. Robinson, Mr. Murphy, Captain Dozier, and Captain Rogers.

From this statement of facts, which are amply sustained in the opinion of the committee, the following conclusions present themselves:

That the vessel of the petitioner was captured and destroyed by the enemy: that such capture and destruction would not, probably, have taken place, if the commander of the United States' ship *Asp* had not interfered with the voyage of the vessel, by taking her and her commander into his service to reconnoitre the enemy, the better to protect himself and the public property under his charge.

The petitioner alleges, and Captain McDuell makes oath to the fact, that his orders were strict and positive to run no risk of capture by the enemy, nor to do any thing which would be likely to endanger the safety of his vessel; and under these orders, and from the declarations of Captain McDuell, it is fair to infer, that, after he was informed of the neighborhood of the enemy, he would have withdrawn up the river, or taken such other precautions as would have assured the safety of the vessel. This, he states, he was prevented from doing by his impressment into the public service. Whether that impressment was legal or not, it is not for the committee *now* to determine. It is sufficient to state that it was the common practice in the time, for officers of any grade, both in the military and naval arm of the service, to impress private property into the public service, and indemnity has been made in

many such cases; and the captain alleges, that, according to the received opinions and the practice of the times, he did not consider himself as having any option or discretion left, after he was told by the commander of the "Asp" that he had *authority* to impress his vessel or any other vessel into his service, and was *ordered* to proceed in the discharge of duties appointed for him. It appears he did proceed in discharge of these duties; and it was in their discharge that the vessel was captured and destroyed.

Although the commander of the "Asp" might not have had authority from his superior officers to impress the vessel of the petitioner into the public service, yet it should be recollected he was charged with a highly important service, upon the successful execution of which depended the fitting out for sea one of the frigates of the United States. It was therefore praiseworthy in him to take all measures of precaution, which in his judgment, would tend to the preservation of the valuable property in his charge, and for its ultimate safe arrival at the place of its destination. One of these measures was, in his opinion, to take and despatch a fast sailing vessel down the river to ascertain the fact of an enemy's neighborhood, so as to enable him to decide whether it would be safe to proceed, or best to return up the river. The measure resulted in the preservation of the public property, and in the subservience of the public interest, and in the loss of the property of the petitioner. Had Mr. Mackall, the commander of the "Asp," neglected to take any or *all* measures within his power to assure the safety of his important charge, it is believed he would have been justly obnoxious to censure; and if, in doing what, under the peculiar circumstances of the case, he might have conceived to be his duty, the public interest was protected, and that of the petitioner sacrificed, it is believed that a due regard for public justice requires that the damage sustained by the petitioner should be made good. With these views, the committee report a bill for his relief.